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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,096	04/01/2004	Justin B. Wenner	209454-82750	9471

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FALKOWSKI PLLC
P.O. BOX 650
NOVI, MI 48376-0650

EXAMINER

LEE, KYUNG S

ART UNIT	PAPER NUMBER
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2832

DATE MAILED: 04/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/816,096

Applicant(s)

WENNER, JUSTIN B.

Examiner

Richard K. Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-26 and 55 is/are allowed.
- 6) ☒ Claim(s) 27-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Terminal Disclaimer

1. The terminal disclaimer filed on 2/2/06 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of Application Number 10/664,778 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 27 is rejected under 35 U.S.C. 102(b) as being anticipated by Trevorrow US Pat. 3,415,189.

4. Trevorrow teaches a system for delaying the activation of a device, comprising:

the device 10 requiring power (please refer to the abstract);

a power source (device connects as an electric initiator, col. 1, line 45);

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an activating component configured to allow said power source to power the device upon exposure to a predetermined environmental attribute; and

the activating component includes a coating 22 that dissolves upon exposure to the predetermined environmental attribute. Please see col. 3, lines 5-20.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 27-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iddan et al. US Pat. 5,604,531 in view of Trevorrow.

Iddan discloses a battery powered delayed activating switch device as claimed. Please see the abstract and col. 4, line 25 for delay activation "to save battery power." A patient swallows an endoscopic device, the device travels through a patient and senses pH, temperature, pressure, etc. (col. 3, line 30).

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Iddan teaches the claimed invention except for a coating which dissolves upon exposure to a predetermined environment attribute. Trevorrow teaches a coating layer 22, which senses and reacts to a predetermined environmental attribute. OS the switching device of Iddan with the delay coating as taught by Trevorrow since delayed activation of the Trevorrow would save battery power.

Regarding claims 29,30 and 32, the coating can be dissolved with a change in pH. Water dissolves the coating of Iddan's device.

Claims 31 and 40, method claim 40 is obvious in view of Trevorrow. Further, use and/or selection of normally closed or normally opened switch devices would be obvious to one skilled in the art.

Regarding claims 33-36, Iddan teaches a sensor. Further, use of and/or substitution of known switching device would be within the level of one skilled in the art.

Regarding claims 37-39, the device of Iddan is used in the alimentary canal of a human.

Allowable Subject Matter

7. Claims 1-26 and 55 are allowed over the prior art of record.

Response to Arguments

8. Applicant's arguments with respect to claim1-55 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

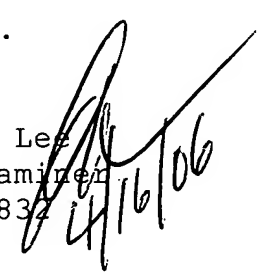
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard K. Lee whose telephone number is (571) 272-1994. The examiner can normally be reached on M, W-F and T-F 6:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin G. Enad can be reached on (571) 272-1990. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Richard K. Lee
Primary Examiner
Art Unit 2832



4/16/06